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86th Session 1998

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Child labour

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INTRODUCTION

In March 1996 the Governing Body at its 265th Session decided to place child labour on the agenda of the 1998 International Labour Conference with a view to the adoption of new international labour standards which place priority on immediate action to stop the intolerable exploitation of children in hazardous work and activities.

A short time later, in June, the 1996 International Labour Conference adopted a resolution concerning the elimination of child labour welcoming the decision to pursue new standards to put an end to the most intolerable aspects of child labour, namely the employment of children in slave-like and bonded conditions and in dangerous and hazardous work, the exploitation of very young children, and the commercial sexual exploitation of children.

Also during the 1996 International Labour Conference, child labour was the subject of discussion at the Informal Tripartite Meeting at the Ministerial Level. Many added their support for new standards aimed at eradicating the most intolerable forms of child labour. At the same time, some stressed that new standard setting was not to imply that existing child labour Conventions would be weakened, but rather that the worst forms of child labour would be given focus, thereby setting the priorities for action in the fight against child labour. Bearing in mind that the United Nations Convention on the Rights of the Child and other international instruments contained relevant provisions, it was none the less felt that a new ILO instrument specifically aimed at preventing and stopping the worst forms of child labour could enhance national and international action, bring the weight of the ILO's supervisory machinery to bear on compliance, and ensure a fuller integration of the priorities of the ILO's International Programme on the Elimination of Child Labour (IPEC) in ILO standards.

The question of child labour will be examined according to the double-discussion procedure established in article 39 of the Standing Orders of the Conference. The Office has accordingly produced the accompanying Report VI (1), *Child labour: Targeting the intolerable*, in preparation for the first discussion by the Conference.

The questionnaire in this volume seeks the views of governments on the possible content of a new ILO instrument(s).

QUESTIONNAIRE

In accordance with article 39 of the Standing Orders of the International Labour Conference, governments are requested to consult the most representative organizations of employers and workers before finalizing their replies to the following questionnaire and to give reasons for their replies. The replies are to reach the International Labour Office in Geneva by 30 June 1997 at the latest.

Most of the questions in this questionnaire are divided into separate sections concerning the possible content of a Convention and the possible content of a Recommendation. You may indicate in answer to any question that the provision should be included in the other instrument.

A separate form for replies has been inserted for the convenience of those responding. Copies can be made for employers' and workers' organizations if their replies are to be separate. Please check the appropriate boxes provided for each answer on the form.

I. Form of the international instrument or instruments

1. *Should the International Labour Conference adopt a new instrument or instruments concerning the elimination of child labour?*

2. *If so, should the instrument or instruments take the form of:*

(a) *a Convention only?*

(b) *a Recommendation only?*

(c) *a Convention supplemented by a Recommendation?*

II. Preamble to the instrument or instruments

3. *Should the Preamble consider that the effective abolition of child labour, which is the subject of the Minimum Age Convention, 1973, and the Minimum Age Recommendation, 1973, would be facilitated by the adoption of a new international instrument(s) aimed specifically at the immediate suppression of extreme forms of child labour?*

4. *Should the Preamble note the provisions of the United Nations Convention on the Rights of the Child and other relevant United Nations instruments?*

5. *Should the Preamble refer to the activities carried out by the organs and specialized agencies of the United Nations and other intergovernmental organizations, such as those concerned with offences against children, and to the need for inter-agency cooperation and coordination?*

III. Content of a Convention

6. *Should the Convention apply to all children under the age of 18, consistent with other relevant international instruments?*

7. *Should the Convention provide that each ratifying Member should suppress immediately all extreme forms of child labour including:*

- (a) *all forms of slavery or practices similar to slavery, sale and trafficking of children, forced or compulsory labour including debt bondage and serfdom?*
- (b) *the use, engagement or offering of a child for prostitution, production of pornography or pornographic performances, production of or trafficking in drugs or other illegal activities?*
- (c) *the use or engagement of children in any type of work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize their health, safety, or morals?*

8. *Should the Convention provide that national laws or regulations or the competent authority should determine, after consultation with the organizations of employers and workers concerned, where such exist: (a) the types of work to be prohibited under question 7 (c) above, and (b) the conditions under which any such type of work may be performed by children as from the age of 16 years consistent with the provisions of Article 3, paragraph 3, of Convention No. 138?*¹

9. (1) *Should the Convention provide that all necessary measures should be taken to ensure the effective enforcement of the provisions of the Convention, including, as appropriate, the provision and strict enforcement of adequate criminal penalties?*

(2) *Should the Convention provide that Members should take effective measures to prevent children from entering or returning to any form of child labour referred to in question 7 above and to provide them with necessary and appropriate direct assistance?*

(3) *Should the Convention provide that Members should designate the competent authority or authorities responsible for the implementation of the provisions giving effect to the Convention?*

(4) *Should the Convention provide that national laws or regulations or the competent authority should define the persons who should be responsible for compliance with the provisions giving effect to the Convention?*

¹ Article 3 of Convention No. 138 provides as follows:

Article 3

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.

2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, where such exist.

3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organizations of employers and workers concerned, where such exist, authorize employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

10. Should the Convention encourage Members to assist each other in giving effect to the provisions of the Convention by means of international judicial and technical assistance or other types of cooperation? If so, which types?

IV. Content of a Recommendation

NATIONAL PROGRAMMES OF ACTION

11. (1) Should the Recommendation provide that Members should, as appropriate, within the framework of a national policy for the elimination of child labour, design and implement national programmes of action to eliminate all extreme forms of child labour?

(2) Should the Recommendation provide that such national programmes of action should be designed and implemented in consultation with relevant government institutions, employers' and workers' organizations, and other concerned groups?

12. Should the Recommendation provide that, as part of national programmes of action referred to in question 11 above, Members should promote and support programmes which:

- (a) identify and denounce all extreme forms of child labour?
- (b) prevent children from entering or returning to, and remove them from, all such forms of child labour; protect them from reprisals; provide them with direct assistance and services including education; provide, as appropriate, for their rehabilitation through measures which address their physical, emotional and psychological needs; and provide for their social integration?
- (c) inform, sensitize and mobilize public opinion and interested groups through targeted campaigns?
- (d) identify and reach out to communities where children are at special risk in order to take preventive and remedial measures?
- (e) give special attention to children under age 12?
- (f) take account of the special problems of girls?
- (g) other? Please specify.

HAZARDOUS WORK

13. Should the Recommendation provide that the determination of the types of work to which question 7 (c) above applies, should:

- (a) be made in consultation with the organizations of employers and workers concerned, where such exist, and, to the extent possible, with experts such as medical, child development, and occupational safety and health professionals?
- (b) take full account of relevant international labour standards?
- (c) take full account of the physical and psychosocial development of the child?
- (d) be examined periodically and revised as necessary?

14. Should the Recommendation provide that the types of work to which question 7 (c) above applies should include, among others, work:

- (a) which exposes children to physical, emotional or sexual abuse?
- (b) which is done underground, under water, and at dangerous heights?
- (c) with dangerous machinery, equipment and tools?
- (d) in an unhealthy environment which may, for example, involve exposure to hazardous substances, agents and processes, or to extreme temperatures, noise levels, and vibrations?
- (e) which is done under particularly difficult conditions such as for long hours, during the night, or without the possibility of returning home each day?
- (f) other? Please specify.

INFORMATION

15. Should the Recommendation provide that detailed information and statistical data on the nature and extent of child labour, including data classified according to sex, age group, occupation, branch of economic activity and status in employment, should be compiled and kept up to date to serve as a basis for determining priorities for national action and designing national policies and programmes for the elimination of child labour?

16. Should the Recommendation provide that Members should compile and update relevant data concerning violations of the provisions of the Convention, including criminal offences and their victims?

SUPERVISION AND ENFORCEMENT

17. Should the Recommendation provide that appropriate national machinery should be established to monitor provisions giving effect to the Convention?

18. Should the Recommendation provide that there be cooperation and coordination among competent authorities which have responsibilities for implementing provisions of the Convention and for enforcing applicable national laws and regulations?

19. Should the Recommendation provide that Members should, in giving effect to the provisions of the Convention, cooperate with international efforts to:

- (a) gather and exchange information concerning criminal offences, including those involving international networks?
- (b) detect and prosecute those involved in the sale and trafficking of children, child prostitution, child pornography and the use of children in illegal activities?
- (c) register perpetrators of such offences?

20. Should the Recommendation provide that national laws and regulations should consider the following as criminal offences: (a) all forms of slavery or practices similar to slavery, the sale and trafficking of children, forced or compulsory labour including debt bondage and serfdom; and (b) the use, engagement or offering of a child for prostitution, production of pornography or pornographic performances, production of or trafficking in drugs or other illegal activities?

21. Should the Recommendation provide that national laws and regulations should also provide criminal penalties for serious and repeated violations of the prohibitions referred to in question 7 (c) above?

22. Should the Recommendation also provide for other measures to ensure the effective enforcement of the provisions of the Convention such as:

- (a) providing compensation to the children affected to be paid by persons found guilty of violations?
- (b) closing down establishments or suspending or revoking authorizations to operate?
- (c) other? Please specify.

23. Should the Recommendation provide that other measures to eliminate all extreme forms of child labour should include the following:

- (a) informing and sensitizing national and local political leaders, parliamentarians and the judiciary?
- (b) involving employers' and workers' organizations as well as community and civic organizations?
- (c) targeting inspection and enforcement measures on extreme forms of child labour?
- (d) appropriate training for inspectors, law enforcement officials, public prosecutors, members of the judiciary, national and local government officials, health professionals, educators and other concerned individuals and organizations?
- (e) adoption of laws allowing for the prosecution of those who commit offences in a country other than their own in violation of the provisions giving effect to the Convention?
- (f) simplification of legal and administrative procedures?
- (g) arrangements for giving publicity to child labour provisions in relevant languages or dialects?
- (h) as appropriate, establishment of special complaints procedures, help lines, and ombudspersons?
- (i) other? Please specify.

INTERNATIONAL COOPERATION AND ASSISTANCE

24. Should the Recommendation provide that Members should cooperate and assist each other in eliminating child labour?

25. Should the Recommendation provide that cooperation and assistance could include:

- (a) mobilizing resources for national and international programmes for the elimination of child labour?
- (b) exchanging information?
- (c) other? Please specify.

V. Special problems

26. (1) *Are there any particularities of national law and practice, which, in your view, are liable to create difficulties in the practical application of an international instrument or instruments as conceived in this report?*

(2) *If so, how would you suggest that those difficulties be met?*

27. (Federal States only.) *Do you consider that, in the event of a Convention being adopted, the subject-matter would be appropriate for federal action or, wholly or in part, for action by the constituent units of the federation?*

28. *Are there, in your view, any other pertinent problems not covered by the present questionnaire which ought to be taken into consideration when the instrument or instruments are being drafted? If so, please specify.*

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